

OPENING STATEMENT OF CHAIRMAN GRASSLEY

I would like to thank my fellow Members for joining me today in this hearing on living trust scams against the elderly. In addition, I want to thank the witnesses for being here today. Your testimony will assist the Committee greatly in educating senior citizens about living trust scams. Your testimony will also assist the Committee in determining how best to address this increasing problem.

Living trusts are a perfectly legal and useful tool for handling one's estate and can serve as a will by distributing one's assets. However, this hearing focuses on the growing trend of selling unnecessary, incomplete, or even dangerous living trusts to the elderly. For more than a decade, various organizations and government offices have been concerned about abusive "trust mills." By "trust mill," I am referring to companies that market living trust kits to the elderly that are often deceptive. Various companies engaged in "trust mills" have been prosecuted, and some have gone bankrupt. However, there is evidence that some of these companies are shut down in one state, only to reappear in another state under another name. Certain unscrupulous companies offer senior citizens advice on estate planning. They contact them through the mail, door-to-door sales, telemarketing, or by sponsoring special seminars at local hotels. This advice is marketed as free. Yet, senior citizens, and their families, should beware.

As the baby boomers age, scams such as these living trusts sales seem to be on the increase. This is why I believe it is important to hold this hearing now. In a recent study, the AARP estimated that as many as 4 million lower-income seniors may have purchased costly, unnecessary and potentially dangerous living trusts as a result of high pressure sales tactics. The AARP even found that some of those firms masquerade as affiliates of the AARP, the Better Business Bureau, or other reputable organizations. Many people who have already purchased a living trust may not realize that it is inadequate or worthless. Others may be relying on a boilerplate living trust kit that is based on another state's law and can cause them problems in their own state. They may believe they will avoid probate or taxes with this living trust. Or, they may have provided financial information to the salespeople who saw the opportunity to sell them other annuities. For those seniors who purchased annuities, they may learn, as did Walter Kulinski of Wisconsin, that significant taxes and penalties can be incurred in connection with the annuities.

One of a living trust's main selling points is that it can help pass assets on to heirs without going through the probate process. However, avoiding probate does not avoid paying debts or estate taxes, although it can save time and limit attorney's fees. What scam artists may not tell senior citizens is that they may not need a will or a trust at all, because their estate is below \$675,000. This is the maximum estate under the federal estate taxation laws to avoid federal estate taxes. States set various other maximum estate limits to avoid taxes.

Today, we will learn how some companies typically make the first contact to sell a living trust. Then, we will learn that a living trust is often boilerplate and may be based on another state's law that doesn't apply to the victim. Moreover, we will learn that the victim is not told, in some instances, that to effectuate the living trust, assets must be deeded over to the trust. We will learn how creating a living trust can have certain disadvantages for senior citizens who need long-term care. Finally, we will hear how living trusts are sometimes used primarily to get access to the victim's assets and to sell the victim other annuities. These sales can be costly to the victim, in terms of penalties and capital gains taxes.

The bottom line is that senior citizens need to be aware that these scams exist. Senior citizens and their families need to be educated to recognize living trust scams. It is important that senior citizens consult family, friends, and knowledgeable professionals BEFORE entering into any of these transactions described today. Simply stated, living trusts aren't for everyone.